IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 548 of 2004 (S/S)

Ajay Pal Singh Rana
S/o Shri Jhaapar Singh
R/o Village Netri, Tehsil Purola,
District Uttarkashi

..... Petitioner

Versus

1. State of Uttaranchal through
its Secretary, Village Development,
Civil Secretariat, Dehradun.
2. The Commissioner,
Gramya Vikas Evam Panchyati Raj,
Uttaranchal, Pauri Garhwal.
3. Chief Development Officer,
Uttarkashi.
4. District Development Officer,
Uttarkashi.
5. Director, Lekha & Hakdari,
Uttarandhal, 13 –Dalanwala, Dehradun.
6. Accountant General, Uttaranchal.

..... Respondents

Mr. Anil Kumar Joshi, learned counsel for the petitioners.
Mr. Harendra Belwal, learned Brief Holder for respondent Nos. 1 to 5.
Mr. J.P. Joshi, learned counsel for respondent No. 6.

Hon'ble Rajesh Tandon, J.

By means of this writ petition, filed under Article 226 of the Constitution of India, the petitioner has sought writ in the nature of certiorari for quashing the orders dated 18.12.2003 passed by respondent No. 4 whereby the time

scale of Rs. 5000 – 8000 sanctioned to the petitioner earlier was cancelled.

2) Brief facts of the case, as narrated in the writ petition, are that the petitioner was initially appointed in the year 1963 on the post of Junior Clerk in the department of the respondents in regular pay scale of Rs. 63 -5 -150 per month. Keeping in view the satisfactory service rendered by the petitioner, he was promoted to the post of Senior Clerk in the department in the pay scale of Rs. 430 – 685 per month. The said pay scale was revised to Rs. 1200 – 2040 w.e.f. 01.01.1986 vide letter No. 5075 / 38-1-21 G / 88 dated 8th August 1989 (copy Annexure- 2 to the writ petition) issued by the Government of Uttar Pradesh to the Commissioner, Gramya Vikas in pursuance of Government Order No. Vey. Aa -1-1739 / DUS-4 /(M) / 89 dated 19.05.1989. Again, vide Government of Uttar Pradesh letter No. Pa. Ma. Ne. – 356 / DUS-22 /(M) / 97 dated 23.12.1997 (copy Annexure- 3 to the writ petition), pay scale of Rs. 1200 – 2040 was revised to Rs. 4000 - 6000 w.e.f. 01.01.1996. The pay scales of Senior Account Clerk (Rs. 430 - 685) and that of the Assistant Accountant (Rs. 470 - 735) were merged and made equal i.e. Rs. 1200 – 2040 per month. As per the Government Order dated 08.03.1997, of the Government of Uttar Pradesh read with Government letter No. Vey. Aa. -1-84 / DUS-12 / (M) / 95 dated 05.02.1997, the employees, on completion of 14 years of satisfactory service were entitled to time scale / promotional scale. On the basis of said Government Order, the petitioner was given time / promotion scale of Rs. 1400 – 2600 (revised 5000 - 8000). On 22.04.2003,

Commissioner, Gramya Vikas Evam Panchyati Raj, Uttaranchal Pauri (respondent No. 2) wrote letter to District Development Officer, Haridwar whereby it was directed that on completion of 24 years satisfactory service, the employees would be provided promotion scale of Rs. 5000 -8000. Misinterpreting the same with Government Order dated Pun. 4709 / pension / 2000 dated 20.06.2000 issued by the Commissioner Gramya Vikas of State of Uttar Pradesh, respondent No. 4 cancelled the time scale of the petitioner vide Order dated 18.12.2003 and, consequently, respondent No. 5 has passed an order on 18.03.2004 for recovery of excess amount paid to the petitioner. Challenging the said orders, this writ petition has been filed.

3) A counter affidavit has been filed on behalf of respondent Nos. 2, 3 and 4, wherein it has been admitted that the petitioner was initially appointed as Junior Clerk and was later promoted to the post of Senior Account Clerk. It is also admitted in the counter affidavit that the petitioner was getting revised pay scale of Rs. 1200 -2040 w.e.f. 01.01.1986. It is also admitted that said scale was revised to Rs. 4000 – 6000 w.e.f. 01.01.1996. However, it is stated that by mistake pay scale of Rs. 5000 – 8000 was given to the petitioner on continuous service of 14 years. On detection of the mistake, the pay scale of Rs. 5000 – 8000 given to the petitioner was cancelled. The petitioner made a representation to the Chief Development Officer, Uttarkahsi, who rejected the same on merits on 19.03.2004. It is further stated in the counter affidavit that only those employees who had been regularised on the posts of Senior

Account Clerk and getting Selection Grade, on completion of 14 years of satisfactory service were to be given the promotional scale, as such the pay scale revised of the petitioner w.e.f. 01.01.1996 was wrong.

4) I heard learned counsel for the parties and perused the affidavit, counter affidavit and rejoinder affidavit along with the annexures annexed thereto.

5) The short question for consideration before this Court is whether, the pay scale of Rs. 5000 – 8000 sanctioned earlier to the petitioner has wrongly been cancelled?

6) Admittedly, the petitioner was appointed initially as Junior Clerk with the respondent No. 3 in the pay scale of Rs. 200 – 320 and later promoted as Senior Account Clerk in the pay scale of Rs. 430 - 685 per month. It is also admitted that the said pay scale i.e. Rs. 430 – 685 was revised to Rs. 1200 – 2040 per month w.e.f. 01.01.1986 and later again revised to Rs. 4000 – 6000 w.e.f. 01.01.1996. It is also not disputed that the petitioner was getting said pay scale of Rs. 4000 – 6000 before he was sanctioned the impugned pay scale of Rs. 5000 – 8000. The only dispute relates to the fact, if the petitioner was entitled to time scale / promotion scale of Rs. 5000 - 8000 on completion of his 14 years of service w.e.f. the date it was earlier sanctioned, and therefore the cancellation of sanction of said scale is wrong in the eyes of law.

7) The facts of the present case are identical to the one decided by a Single Judge Bench of this Court on 5th November, 2004 in ***Writ Petition No. 125 (S/S) of 2004;***

Sohan Pal Singh Parmar and 11 others Vs. The Commissioner, Gramya Vikas Evam Panchyati Raj, Uttaranchal and others, wherein the writ petition of the petitioners was allowed with the following observation:

"A writ of certiorari is issued quashing the impugned order dated 18.12.2003 passed by respondent No. 4 and order dated 18.03.2004 passed by respondent No. 5."

8) Consequently, the writ petition is disposed of in terms of the aforementioned judgment dated 5th November, 2004. No order as to costs.

(Rajesh Tandon, J.)

Dt: 03.03.2006